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## Synopsis and Discussion Points for GS 62A and the Wireless 911 Fund

1. Definitions [62A-3, 62A-21]<sup>1</sup>
    - Definitions are added to the wireline and wireless sections relevant to the wireless industry and 911 service, and to support drafts of substantive modifications.
    - Additional definitions include "Rural County", "MSAG", "Primary PSAP", "Prepaid Wireless Telephone Service" and "Wireless E-911 State Plan."
  2. Powers and Duties [62A-22A]
    - The current statute does not include powers and duties. Such provisions are generally included when the legislature creates Authorities, Boards and Commissions.
    - Principally addresses current duties and the establishment of a statewide E-911 network.
  3. Rotation of Board Members [62A-22]
    - Presently all terms are four years and expire concurrently. Text modifications make terms 3 or 4 years and allow each appointing official to designate the terms for their appointees.
  4. Powers and Duties [62A-22A]
    - The current statute does not include powers and duties. Such provisions are generally included when the legislature creates Authorities, Boards and Commissions.
    - Principally addresses current duties and the establishment of a statewide E-911 network.
    - Recognizes authority necessary to effect other substantive modifications.
  5. Prepaid Wireless [62A-23(b)]
    - Requires prepaid service providers to pay the service fee.
  6. Service Provider "opt out" [62A-24(e)]
    - Allows service providers to stop collecting and remitting the service fee portion allocated to service providers if they elect not to seek reimbursement from the Fund.
- Alltel Comment:** The "fractional surcharge" collection in the proposed legislation is not clear with what we discussed as the intent. The proposed language needs clarification to more precisely state the intent. If that can be done then ALLTEL would be more acceptable to the proposal. As it is written today ALLTEL opposes the "Opt-Out option."
7. Use of the Wireless Fund [62A-25]
    - Adds a new section relating to a set-aside of 4% from the Fund, and allows the Board to award funds from this set-aside as grants or loans based on local government application. Allowable costs are broader than the current Fund use restrictions, but remain limited to achievement of goals of the Board and the statute.
    - Clarifications are added to the current Fund use restrictions for the 40% fund.

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<sup>1</sup> References to statutory sections refer to the attached draft document.

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- Adds a restriction to ensure compliance with Phase I before funds are expended on Phase II.
- 8. Suspension of funding [62A-25(A)]
  - Allows the Board to suspend funding if a recipient uses funds in an unauthorized manner. This provides a statement of statutory support for current Board policy.
- 9. Eligible PSAP [62A-27(A)]
  - Identification and clarification of "eligible PSAP."

## CHAPTER 62A. PUBLIC SAFETY TELEPHONE SERVICE AND WIRELESS TELEPHONE SERVICE

### ARTICLE 1. PUBLIC SAFETY TELEPHONE SERVICE

#### § 62A-3. Definitions

As used in this Article:

(1) "911 system" or "911 service" means an emergency telephone system that provides the user of the public telephone system the ability to reach a public safety answering point by dialing the digits 911. The term 911 system or 911 service also includes "Enhanced 911 service," ~~but excludes wireless E-911 systems as defined in Article 2 of this Chapter 62A,~~ which means an emergency telephone system that provides the user of the public telephone system with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features.

(2) "911 charge" means a contribution to the local government for the 911 service start-up equipment costs, subscriber notification costs, addressing costs, billing costs, and nonrecurring and recurring installation, maintenance, service, and network charges of a service supplier providing 911 service pursuant to this Article.

(3) "Addressing" means the assigning of a numerical address and street name (the street name may be numerical) to each location within a local government's geographical area necessary to provide public safety service as determined by the local government. This address replaces any route and box number currently in place in the 911 database and facilitates quicker response by public safety agencies.

(4) "Database service provider" means a service supplier who maintains and supplies or contracts to maintain and supply an ALI database or a MSAG.

(5) "Enhanced 9-1-1 system" or "E-911" means a system consisting of telephone and CMRS network features and PSAPs provided for users of telephone systems enabling such users to reach a PSAP by dialing the digits "9-1-1." Such system automatically directs 9-1-1 emergency telephone calls to the appropriate PSAPs by selective routing based on the geographical location from which the emergency call originated, or as otherwise provided in the state plan under G.S. §62A-22A and provides the capability for ANI and ALI features.

(46) "Exchange access facility" means the access from a particular telephone subscriber's premises to the telephone system of a service supplier. Exchange access facilities include service supplier provided access lines, PBX trunks and centrex network access registers, all as defined by tariffs of telephone companies as approved by the North Carolina Utilities Commission. Exchange access facilities do not include service supplier owned and operated telephone pay station lines, or Wide Area Telecommunications Service (WATS), Foreign Exchange (FX) or incoming only lines.

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(57) "Local government" means any city, county, or political subdivision of North Carolina and its agencies.

(8) "Master street address guide" or "MSAG" means a perpetual database that contains information continuously provided by or for a service provider that defines the geographic area of the service district and includes an alphabetical list of street names, the range of address numbers on each street, the names of each community in the service area and the PSAP identification codes.

(-9) "Private switch ALI" or "PSA" means a service option which provides enhanced 911 features for telephone stations behind private switches, e.g., PBX's. Each PBX system installed after January 1, 2006, must be capable of providing automatic location identification to the station level.

**NENA & APCO Comment:** This is just a definition, there is no mandate later in the statute requiring PS/ALI. How does this affect enforceability?

(610) "Public agency" means the State and any city, county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within the State which provides or has authority to provide firefighting, law enforcement, ambulance, medical, or other emergency services.

(711) "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, suicide prevention, civil defense, poison control, or other emergency services.

(812) "Service supplier" means a person or entity who provides exchange telephone service to a telephone subscriber.

(913) "Telephone subscriber" or "subscriber" means a person or entity to whom exchange telephone service, either residential or commercial, is provided and in return for which the person or entity is billed on a monthly basis. When the same person, business, or organization has several telephone access lines, each exchange access facility shall constitute a separate subscription.

(4014) "Primary PSAP" is the first point of reception by a public safety agency of a 9-1-1 call and means an eligible PSAP that is either the only PSAP in a county, or a PSAP identified by the local governments within a county, or region comprising two or more counties as the Primary PSAP to receive funding pursuant to 62A-5.

**NENA & APCO Comment:** drop "s" in government. {Government is plural based on the potential for multiple governments to exist within a county.}

**NENA & APCO Comment:** Add the definition of the word "training", to include related registration fees, workbooks, travel expense, initial and renewals of certifications, etc.

7 Better define Training

## § 62A-8. Payments from Fund

(a) Money from the Emergency Telephone System Fund shall be used only to pay for:

(1) The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software and database provisioning, addressing, and nonrecurring costs of establishing a 911 system, and

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**NENA & APCO Comment:** Add CAD & GIS, training & the related travel required to accomplish, protocol based call taking software & hardware, also add "and maintenance" of above.

(2) The rates associated with the service supplier's 911 service and other service supplier recurring charges.

(b) The following expenses are not eligible for payment from the Fund: the lease or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring, training, and compensating dispatchers, and the lease or purchase of radio equipment, mobile communications vehicles, ambulances, fire engines, or other emergency vehicles.

**NENA & APCO Comment:** Delete training from not eligible list.

(c) A local government may contract with a service supplier for any term negotiated by the service supplier and the local government and may make payments from the Emergency Telephone System Fund to provide any payments required by the contract.

## 62A-9. Telephone records

(a) Each telephone service supplier shall provide subscriber telephone numbers, names, and service addresses to 911 systems when required by a local government. Although customer numbers, names and service addresses shall be available to 911 systems, such information shall remain the property of the disclosing service supplier. The total cost of the system shall include expenses paid to service suppliers to provide and maintain 911 information. This information shall be used only in providing emergency response services to 911 calls. A local government may not release a telephone number required to be provided under this section to any person for purposes other than including the number in the emergency telephone system database or providing the number to permit a response to police, fire, medical, or other emergency situation.

(b) To the extent necessary to provide 911 service, private listing customers of a service supplier in a 911 service area waive the privacy afforded by nonlisted and nonpublished numbers when the 911 service is established.

(c) No service supplier, or agents or employees of a service supplier, shall be liable to any person provided 911 service established under this Article for release for emergency telephone purposes of information specified in this section that is not already part of the public record, including nonlisted or nonpublished telephone numbers.

**NENA & APCO Comment:** Include service supplier subscriber data for emergency notification systems

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## ARTICLE 2. WIRELESS TELEPHONE SERVICE

### § 62A-21. Definitions

As used in this Article:

(1) "Automatic location identification" or "ALI" means a wireless Enhanced 911 service capability that enables the automatic display of information defining the approximate geographic location of the wireless telephone used to place a 911 call in accordance with the FCC Order and includes pseudoautomatic number identification.

(2) "Automatic number identification" or "ANI" means a wireless Enhanced 911 service capability that enables the automatic display of a mobile handset telephone number used to place a 911 call.

(3) "CMRS" means "commercial mobile radio service" under sections 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. §151, et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66, August 10, 1993, 107 Stat. 312. It includes the term "wireless" and service provided by any wireless two-way voice communication device, including radio-telephone communications used in cellular telephone service, personal communications service, or the functional competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, SMR mobile service, or a network radio access line which has access to E911 service; but not Voice over Internet Protocol (VoIP).

(4) "CMRS connection" means each mobile handset telephone number assigned to a CMRS customer with a place of primary use in North Carolina.

(5) "CMRS provider" means a person or entity who is licensed by the FCC to provide CMRS service or is reselling CMRS service. The term includes facilities based and nonfacilities based resellers.

(-6) "County plan." A document submitted by a county or combination of local governments on an annual or biennial basis to the Board, outlining its existing and proposed and existing wireline and wireless 911 and enhanced 911 systems and procedures, including a budget showing the revenue from the 911 charge established under G.S. §62A-4, for the forthcoming year or years.

**NENA & APCO Comment:** delete paragraph "County Plan"

(7) "Eligible PSAPs" means those public safety answering points that have opted to provide wireless Enhanced 911 service and have submitted written notice to their CMRS providers and to the Wireless 911 Board.

(8) "FCC Order" means the Order of the Federal Communications Commission, FCC Docket No. 94-102, adopted on December 1, 1997.

(9) "Local exchange carrier" means any entity that is authorized to engage in the provision of telephone exchange service or exchange access in North Carolina.

(10) "GIS Mapping" means the development of a computerized geographical display system of roads and structures where emergency response may be required

(11) "Mobile set telephone number" means the number assigned to a CMRS connection. As used in this chapter, "mobile telephone number" means the ten (10) digit number assigned to a CMRS mobile phone.

(12) "Proprietary information" means customer lists and other related information, technology descriptions, technical information, or trade secrets, including the term "trade secrets" as defined by the North Carolina Trade Secrets Protection Act, G.S. 66-152, and the

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1 actual or developmental costs of wireless Enhanced 911 systems that are developed, produced, or  
2 received internally by a CMRS provider or by a CMRS provider's employees, directors, officers,  
3 or agents.

4 (13) "PSAP" ("public safety answering point") means the public safety agency that receives  
5 incoming 911 calls and dispatches appropriate public safety agencies to respond to such calls.

6 **NENA & APCO Comment:** Refer back to article 1 to mirror definition for  
7 PSAP.

8 (14) "Pseudoautomatic number identification" or "Pseudo-ANI" means a wireless Enhanced  
9 911 service capability that enables the automatic display of the number of the cell site or cell  
10 face and used to identify the approximate location of a wireless caller.

11 (15) Rural County means a county with a density of fewer than 250 people per square mile  
12 based on the 2000 U.S. decennial census. {Need to verify this.}

13 **NENA & APCO Comment:** Delete 2000, use "most current."

14 (16) "Selective routing" means the method employed to direct 911 calls to the appropriate  
15 public safety answering point based on the geographical location from which the call originated.

16 (17) As used in this chapter, "subscriber" refers to a person or a prepaid subscriber of CMRS  
17 service. As used in this chapter, "prepaid subscriber" refers to a CMRS subscriber who pays in  
18 full prospectively for CMRS service and is issued an North Carolina telephone number or an  
19 North Carolina identification number for the service.

20 **NENA & APCO Comment:** Strike 1st sentence, make clearer.

21 (18) "Service supplier" means a person or entity who provides exchange telephone service to  
22 a telephone subscriber.

23 (19) "Wireless E-911 State plan." A document to be prepared, maintained and kept current  
24 by the Board providing for all aspects of the development, implementation, operation and  
25 maintenance of a Statewide integrated wireless E-911 system, including the Board's  
26 recommended technical standards and determination of permitted uses of and amounts disbursed  
27 from the Wireless E-911 Fund.

28 (20) "Wireless 911 system" means an emergency telephone system that provides the user of a  
29 CMRS connection the ability to reach a PSAP by dialing the digits 911, and is complementary to  
30 a wireline enhanced emergency telephone system.

31 (21) "Wireless Enhanced 911 system" means an emergency telephone system that provides  
32 the user of the CMRS connection with wireless 911 service and, in addition, directs 911 calls to  
33 appropriate PSAPs by selective routing based on the geographical location from which the call  
34 originated and provides the capability for ANI (or Pseudo-ANI) and ALI features, in accordance  
35 with the requirements of the FCC Order.

36 (22) "Enhanced 9-1-1 system" or "E-911" means a system consisting of telephone and  
37 CMRS network features and PSAPs provided for users of telephone systems enabling such users  
38 to reach a PSAP by dialing the digits "9-1-1." Such system automatically directs 9-1-1  
39 emergency telephone calls to the appropriate PSAPs by selective routing based on the  
40 geographical location from which the emergency call originated, or as otherwise provided in the  
41 state plan under G.S. §62A-22A and provides the capability for ANI and ALI features.

42 (23) "Wireless Fund" means the Wireless Emergency Telephone System Fund required to be  
43 established and maintained pursuant to G.S. 62A-22(c).

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(24) "Primary PSAP" is the first point of reception by a public safety agency of a 9-1-1 call and means an eligible PSAP that is either the only PSAP in a county or a PSAP identified by the local governments within a county or region comprising two or more counties as the Primary PSAP consistent with the FCC Order, as amended, to receive funding pursuant to G.S. 62A-25(c)(1). If the legislative authority of a municipality corporation or township that contains at least thirty per cent of the county's population in which the municipality is principally located establishes one or more PSAPs within its boundaries, or the legislative authorities of a group of municipalities corporations or townships each of which is contiguous with at least one other such municipality corporation or township in the group, together contain at least thirty per cent of the county's population in which the municipalities are principally located, jointly establish a 9-1-1 system within their boundaries, the establishing authority may designate a PSAP as a Primary PSAP.

**NENA & APCO Comment:** Refer back to article 1 to mirror definition.

(25) "Prepaid wireless telephone service" means wireless telephone service that is activated in advance by payment for a finite dollar amount of service or for a finite set of minutes that terminate either upon use by a customer and delivery by a CMRS provider or Reseller of an agreed-upon amount of service corresponding to the total dollar amount paid in advance or within a certain period of time following the initial purchase or activation, unless additional payments are made. "Active prepaid wireless telephone" means a prepaid wireless telephone that has been used by the customer during the month to complete a telephone call for which the customer's card or balance was decremented.

**Verizon Comments:** Questions are arising regarding the need for including prepaid at this time, particularly in light of the fact that the state legislature raided the fund of \$53 M over 2 years in the 2002 session and used those monies for non-intended purposes. If the larger carriers have completed, or are nearing completion of their deployments, the Board, if it wants to include prepaid from a policy/fairness perspective, could entertain a possible reduction in the overall fee (split equally in reducing part to PSAPs and part to carrier cost recovery) so that the net effect of the increased fee imposed on prepaid would be neutral overall in the amount of funds raised through the fee.

(26) "Wireless E-911 CMRS costs" means all reasonable, direct recurring and nonrecurring capital costs and operating expenses incurred by CMRS consistent with 62A-25(b) wireless E-911 service, which have been sworn to by an authorized agent of a CMRS provider.

(27) "Wireless E-911 PSAP costs" means all reasonable direct recurring and nonrecurring capital costs and operating expenses incurred by a PSAP consistent with 62A-25(c) required to provide wireless E-911 service and direct personnel costs incurred in receiving and dispatching wireless E-911 emergency telephone calls; all of which are supported by itemized invoices, contracts or tariffs and have been sworn to by an authorized agent of the PSAP.

**NENA & APCO Comment:** delete lines after ...and direct personnel costs incurred....

(28) "Wireless E-911 State plan." A document to be prepared, maintained and kept current by the Board providing for all aspects of the development, implementation, operation and

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1 maintenance of a Statewide integrated wireless E-911 system, including the exclusive authority  
2 to formulate technical standards and determine permitted uses of and amounts disbursed from the  
3 Wireless E-911 Emergency Services Fund established by section 62A-23.  
4

5 **NENA & APCO Comment:** Refer back to previous state plan definition 62A-  
6 21.19.

## 7 **§62A-22A. Powers and Duties.**

8 The Board shall have the power and duty to:

- 9 (a) Make and enter into all contracts and agreements necessary or incidental to the  
10 performance of its duties and the execution of its powers, including purchase agreements  
11 payable from (i) the administrative fee portion of Wireless E-911 Fund established by  
12 G.S. 62A-26 and (ii) other moneys appropriated to or received by the Board for the  
13 provision of enhanced wireless emergency telecommunications.  
14 (b) Accept gifts, grants, or other moneys, and to receive appropriations which may be made  
15 by law.  
16 (c) Develop a comprehensive, enhanced wireless emergency telecommunications plan for  
17 implementing a statewide enhanced wireless emergency telecommunications services  
18 network. In constructing and periodically updating this plan as appropriate, the Board  
19 shall monitor trends and advances in enhanced wireless emergency telecommunications  
20 technology, plan and forecast future needs for enhanced wireless emergency  
21 telecommunications technology, investigate and utilize development of other resources  
22 within the State as part of a statewide plan and network including but not limited to GIS  
23 mapping, use of the State's communications network, and Voice over Internet Protocol  
24 (VoIP), and formulate strategies for the efficient and effective delivery of enhanced  
25 wireless emergency telecommunications services.  
26 (e)(d) In consultation with the Office of Information Technology Services, provide  
27 information to aid in the establishment, management and operation, of a statewide  
28 enhanced wireless emergency telecommunications services network through either State  
29 ownership or commercial leasing of telecommunications facilities.  
30 (d)(e) Provide or fund, in the discretion of the Board upon terms and consistent with the  
31 policies and procedures established by the Board, and subject to available funding,  
32 training and advisory services for PSAPs for the purposes of (b) above; (c) above; and for  
33 the purposes of 62A-25A.  
34 (f) Establish operating standards concerning acceptable uses of PSAP reimbursements from  
35 the service fees for enhanced 911 communications and periodically review and revise  
36 these standards.  
37 (g) In addition to the criteria determining eligible Primary PSAPs in 62A-21( ), but not in  
38 substitution thereof, develop policies and procedures to facilitate identification and  
39 funding for additional PSAPs as primary PSAPs as may be necessary or proper to achieve  
40 enhanced wireless 911 service, compliance with the statewide plan, and development of a  
41 statewide network.

42 **NENA & APCO Comment:** Delete g {*Enabling legislation for Boards and*  
43 *Commissions generally contains a "powers and duties" section. This is an*



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1 *example of such a provision adapted to current functions and proposed functions*  
2 *of the Wireless Board.}*

- 3 (h) Act as an advocate for issues related to wireless 911 system functions, features, and  
4 operations to improve the delivery of wireless 911 services to the residents of and visitors  
5 to this state.  
6 (i) Take other necessary or proper actions to implement this chapter that are not inconsistent  
7 with North Carolina law.  
8

## § 62A-22. Wireless 911 Board

9 (a) There is created a Wireless 911 Board ("Board"), consisting of 13 members as follows:

10 (1) Two members appointed by the Governor, one upon the recommendation of the North  
11 Carolina League of Municipalities and one upon the recommendation of the North Carolina  
12 Association of County Commissioners; one appointee shall serve a term of three years and one  
13 shall serve a term of four years;

14 (2) Five members appointed by the General Assembly upon the recommendation of the  
15 Speaker of the House of Representatives, one of whom shall be a sheriff, three representing  
16 CMRS providers licensed to do business in North Carolina and one representing the North  
17 Carolina Chapter of the Association of Public Safety Communications Officials (APCO); two  
18 appointees shall serve a term of three years and three shall serve a term of four years;

19 (3) Five members appointed by the General Assembly upon the recommendation of the  
20 President Pro Tempore of the Senate, one of whom shall be a chief of police, two representing  
21 CMRS providers licensed to do business in North Carolina, one representing local exchange  
22 carriers licensed to do business in North Carolina, and one representing the North Carolina  
23 Chapter of the National Emergency Number Association (NENA); two appointees shall serve a  
24 term of three years and three shall serve a term of four years; and

25 (4) The State Chief Information Officer or the Chief Information Officer's designee, who  
26 shall serve as the chair.

27 A quorum of the Board shall consist of seven members. The Board shall meet upon the call  
28 of the chair.

29 (b) Each member shall serve a term of three or four years as determined by the appointing officer  
30 and may be appointed to no more than two successive terms. All members of the Commission  
31 shall remain in office until their successors are appointed and qualify. A vacancy in an  
32 appointment made by the Governor shall be filled by the Governor for the remainder of the  
33 unexpired term. A vacancy in an appointment made by the General Assembly shall be filled in  
34 accordance with G.S. 120-122. A person appointed to fill a vacancy shall qualify in the same  
35 manner as a person appointed for a full term. Vacancies may be filled in the same manner as the  
36 original appointment.

37 (c) Removal of Board Members. - The Governor may remove any member of the Board for  
38 misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13(d). The Governor or  
39 the person who appointed a member may remove the member for using improper influence in  
40 accordance with G.S. 143B-13(c).

41 (ed) There is established with the Treasurer the Wireless Fund into which the Board shall deposit  
42 all revenues derived from the service charge levied on CMRS connections in the State and  
43 collected pursuant to G.S. 62A-23. The Wireless Fund shall be a nonreverting separate fund  
44 restricted to the uses set forth in this Article.

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1 (de) Consistent with the provisions of G.S. 143-3.2, the Board shall disburse the revenues  
2 remitted to the Wireless Fund in the manner set forth in G.S. 62A-25. The Board shall establish  
3 procedures for disbursement of these revenues and advise the CMRS providers and eligible  
4 counties of such procedures within 60 days after all members are appointed pursuant to G.S.  
5 62A-22(a).

6 (ef) The Board shall serve without compensation, but members of the Board shall receive per  
7 diem, subsistence, and travel allowances at the rate established in G.S. 138-5.

8 (g) Conflicts of Interest. - Members of the Board shall comply with the provisions of G.S. 14-  
9 234 prohibiting conflicts of interest. In addition, if any member, officer, or employee of the  
10 Board is interested either directly or indirectly, or is an officer or employee of or has an  
11 ownership interest in any firm or corporation, not including units of local government, interested  
12 directly or indirectly, in any contract with the Board, the member, officer, or employee shall  
13 disclose the interest to the Board, which shall set forth the disclosure in the minutes of the Board.  
14 The member, officer, or employee having an interest may not participate on behalf of the Board  
15 in any matter in which they have a conflict of interest.

16  
17 **Cingular Comment:** (22A) enumerate the powers and duties of the board, but it  
18 says nothing about CMRS cost recovery. That should be a primary function of  
19 the board. Section 22(g) is new and addresses conflicts of interest. Further  
20 comment may be submitted based on legal review, but initial review is that this is  
21 acceptable.

## 22 § 62A-23. Amount of service charge

23 (a) The Board shall levy a monthly wireless Enhanced 911 service charge on each CMRS  
24 connection. The service charge shall not be a tax. The rate of such service charge shall initially  
25 be set at eighty cents (80 cent(s)) per month per each CMRS connection beginning October 1,  
26 1998. The service charge shall have uniform application and shall be imposed throughout the  
27 State.

28 (b) For any subscriber CMRS connection not billed on a monthly basis, the service charge shall  
29 be collected either at the point of sale or calculated monthly by the CMRS provider based on the  
30 number of wireless subscribers on the last day of the month. In the case of prepaid wireless  
31 telephone service, the monthly wireless 911 surcharge shall be remitted based upon each prepaid  
32 wireless telephone or calling card purchased in this State, for each wireless service customer that  
33 has a sufficient positive balance as of the last day of each month. The surcharge shall be  
34 remitted in any manner consistent with the wireless provider's existing operating or technological  
35 abilities, such as customer address, location associated with the mobile set telephone number or  
36 ESN, or reasonable allocation method based upon other comparable relevant data. The  
37 surcharge amount or an equivalent number of air-time minutes may be reduced from the prepaid  
38 subscriber's account when direct billing is, or may, not be possible. However, collection of the  
39 wireless 911 surcharge in the manner of a reduction of value or air-time minutes from the  
40 prepaid subscriber's account shall not constitute a reduction in the sales price for purposes of  
41 taxes that are collected at the point of sale.

1           **Cingular Comment:** Cingular does not oppose the extension of the  
2 service charge to prepaid customers. The language proposed is  
3 acceptable.

4           **Verizon Comments:** Suggestion that the Board permit the following  
5 methodology (as suggested by several resellers):

6 CMRS providers shall remit to the board the service charge under one of  
7 two methods:

8           (a) The CMRS provider shall collect, on a monthly basis, the service  
9 charge from each active prepaid customer whose account balance is equal  
10 to or greater than the amount of the service charge; or

11           (b) The CMRS provider shall divide the total earned prepaid wireless  
12 telephone revenue received by the CMRS provider within the monthly 911  
13 reporting period by fifty dollars (\$50), and multiply the quotient by the  
14 service charge amount.

15  
16 (c) ~~(b)~~ The service charge may be adjusted by the Board beginning July 1, 2000 and every two  
17 years thereafter. The Board is to set the service charge at such a rate as to ensure full recovery for  
18 CMRS providers and for PSAPs, over a reasonable period of time, of the costs allowed in G.S.  
19 ~~62A-25(c)~~ associated with developing and maintaining a wireless Enhanced 911 system. If  
20 necessary to ensure full recovery of costs for both CMRS providers and PSAPs over a reasonable  
21 period of time, the Board may adjust the allocation percentages set forth in G.S. 62A-25(a), (b)  
22 and (c) G.S. 62A-25(b), or reallocate funds comprising the Wireless Fund, provided, however,  
23 that any adjustment or reallocation shall be consistent with the requirements of the FCC Order.

24           **Cingular Comment:** Section 23(c) is disturbing. They strike the word 'full'  
25 from 'full cost recovery.' When this legislation was proposed and passed, the  
26 understanding was that our customers were paying this fee to the state for use in  
27 building the Phase 1 and Phase 2 infrastructure. Both PSAPs and CMRS  
28 providers were to draw from the fund. If 'full' cost recovery is not provided by  
29 the state, CMRS customers will have to pay for the infrastructure AGAIN through  
30 add-on fees. That is not acceptable.

31 (d) ~~(e)~~ The service charge shall not exceed eighty cents (80 cent(s)) per month.

32 (e) ~~(d)~~ The Board may adopt other rules and procedures as may be necessary to effect the  
33 provisions of this act but may not regulate any other aspect of the provision of wireless Enhanced  
34 911 service, such as technical standards.

35 (f) ~~(e)~~ No other State agency or local government may levy any additional surcharge relating to  
36 the provision of wireless Enhanced 911 service.

37 **§ 62A-23A Numbers exempt from fee**

38           A CMRS number is exempt from the wireless emergency enhanced 911 fee if the  
39 subscriber is any of the following:

40           (a) The federal government or an agency of the federal government.

41           (b) The state or an agency or instrumentality of the State.

42           (c) A political subdivision of the State.  
43  
43

1 **§ 62A-24. Management of funds**

2 (a) Each CMRS provider, as a part of its monthly billing process, shall collect the wireless  
3 Enhanced 911 service charge described in G.S. 62A-23. The CMRS provider may list the service  
4 charge as a separate entry on each bill. If a CMRS provider receives a partial payment for a  
5 monthly bill from a subscriber, the provider shall apply the payment first against the amount the  
6 subscriber owes the provider.

7 (b) A CMRS provider has no obligation to take any legal action to enforce the collection of the  
8 service charges for which any subscriber is billed. However, a collection action may be initiated  
9 by the Board and reasonable costs and attorneys' fees associated with that collection action may  
10 be awarded.

11 (c) Each CMRS provider shall be entitled to deduct a one percent (1%) administrative fee from  
12 the total service charges collected.

13 (d) All service charges collected by the CMRS providers, less the administrative fee described in  
14 subsection (c) of this section, are to be remitted to the Wireless Fund, not later than 30 days after  
15 the end of the calendar month in which such service charges are collected.

16 (e) Before June 30, 2005, all CMRS providers shall notify the Board in writing whether they will  
17 seek reimbursement from the Wireless Fund for costs incurred in implementing the FCC Order  
18 and this Chapter. If a CMRS provider elects to seek reimbursement under this subsection, it shall  
19 continue to collect the monthly service fee authorized under 62A-23 and participate in  
20 reimbursements under 62A-25. A CMRS provider that notifies the Board in writing that it will  
21 not seek reimbursement under this subsection shall collect a fractional service charge per month  
22 consistent with 62A-25 as determined by the Board, and shall not seek or receive reimbursement  
23 from the Wireless Fund for costs incurred after the date of its notice to the committee. CMRS  
24 providers beginning service after June 30, 2005 shall provide written notice to the Board not later  
25 than 60 days following their initial service provision date stating whether they will seek  
26 reimbursement from the Wireless Fund for costs incurred in implementing the FCC Order and  
27 this Chapter, and shall collect and remit the service charge consistent with this Chapter and the  
28 Board's determination.

29 **Alltel comment:** The "fractional surcharge" collection in the proposed  
30 legislation is not clear with what we discussed as the intent. According to  
31 our Little Rock personnel the proposed language needs clarification to  
32 more precisely state the intent. If that can be done then ALLTEL would  
33 be more acceptable to the proposal. As it is written today ALLTEL  
34 opposes the "Opt-Out option."

35 **Cingular comment:** Cingular will not oppose the addition of this  
36 language as long as it remains voluntary and an appropriate reduction in  
37 the 80¢ service charge is made if a carrier opts-out. A fee of 55¢ to 60¢ is  
38 reasonable for customers of carriers who have opted-out.

39 **Verizon Comment:** Concern raised that the net effect of the "opt out"  
40 provision is to cripple or destroy the previous pooling concept that  
41 benefited smaller carriers and those that operate in rural areas. This new  
42 "leave when you wish" program may hurt the last few carriers involved by  
43 requiring them to pay proportionately more for remaining deployments.  
44 Perhaps a better approach would be to reduce the fee and remove carrier

cost recovery for all carriers at one time. An 18 to 24 month notice of the trigger date would be beneficial for planning purposes.

**Ron Adams Comment:** Although the CMRS providers can opt out of seeking reimbursement from the Board, there is no clause prohibiting them from then seeking reimbursement from individual PSAPs. *[Note that there is no prohibition of such action under current federal or N.C. law or regulation.]*

## § 62A-25. Use of funds

(a) Four percent of the funds in the Wireless Fund established in G.S. 62A-22(c) shall be allocated for use as a fund for reimbursable loans and/or grants by the Board to rural counties or local governments for costs of upgrading existing E-911 systems for the purpose of providing facilities and network and service enhancements as identified herein.

**Cingular Comment:** This creates a new fund using 4% of the proceeds for rural loans and grants. Cingular has no objection.

**NENA & APCO Comment:** Better define the concept, how the money is split between the 3 funds, also the training in 62A-25(a)(3) conflicts with 62A-25(a)(1)(b) Training needs to be included as an eligible expense.

(1) Grant applications; local governments. A local government PSAPs. A county that operates a wireless public safety answering point PSAP, or local governments that jointly operate a wireless public safety answering point PSAP, may not receive a grant unless the requirements under this subparagraph A are satisfied and, no later than the first day of the 3rd month beginning after the effective date of the Board's policies and procedures governing the fund for reimbursable loans and/or grants, the local government applies to the Board with an estimate, and supporting documentation, of the costs that the local government or local governments government(s) have directly and primarily incurred, or will directly and primarily incur, during their requested reimbursement period for leasing, purchasing, operating, or maintaining the wireless system, including costs for any of the following:

a. Necessary network equipment, computer hardware and software, database equipment, and telephone equipment, that are located within the wireless public safety answering point PSAP.

b. Training operators of a wireless public safety answering point PSAP as part of the enhancements funded with a grant or loan as provided in this section.

c. Network costs for delivery of calls from a wireless provider to a wireless public safety answering point PSAP.

d. Collection and maintenance of data used by the wireless public safety answering point PSAP, including data to identify a caller and the location of a caller.

e. Relaying messages regarding wireless emergency 911 telephone calls via data communications from the wireless public safety answering point PSAP to local government emergency call centers in operation before June 30, 2004, that dispatch the appropriate emergency service providers, but only if the policies and procedures promulgated under 62A-25(A)(4) allow for reimbursement of such costs.

(2) Grants; Board approval and rules. The Board may approve an application if the Board determines that the costs estimated in the application are reasonable and have been, or will

be, incurred for the purpose of promoting a cost-effective and efficient statewide system for responding to wireless emergency 911 telephone calls, that sufficient funds are available for the fiscal year in which grant disbursements will be made, that the costs are consistent with the Board's Statewide E-911 Plan and, for an application under (A)(1)(c), if the following requirements are satisfied.

a. If an application includes an estimate of costs identified in (A)(1)(c) incurred during (date), the Board may approve the application only if it determines that the local governments collection of land mapping information, and development of a land information mapping system is related to purposes that are consistent with the FCC Order, conform to the standards on which such systems are based, and do not duplicate land information collection and other efforts funded by or through the County for non-wireless 911 purposes. The Board shall obtain the advice of the Geographic Information Coordinating Council in making determinations under this subdivision.

b. If the Board does not approve an application, the Board shall provide the applicant or applicants with the Board's reasons and give the applicant or applicants an opportunity to resubmit the application.

(3) No grant to a local government may be used to reimburse costs for any of the following:

a. Emergency service dispatch, including personnel, training, equipment, software, records management, radio communications, and mobile data network systems.

b. Vehicles and equipment in vehicles.

c. Radio communications equipment and software used to communicate with vehicles.

d. Real estate and improvements to real estate, other than improvements necessary to maintain the security of a wireless public safety answering point.

e. Salaries and benefits of operators of a wireless public safety answering point.PSAP.

(4) The Board shall promulgate policies and procedures for making grants under this paragraph, including criteria for approving estimated costs. The policies and procedures shall include record-keeping requirements to ensure that the grants are used to reimburse estimated costs approved by the Board. The policies and procedures shall allow the Board to make the grants in installments. The policies and procedures may allow local governments to receive grants for reimbursement of the costs described in (A)(1)(c), but only if the Board determines that reimbursement of such costs is in the public interest, promotes public health and safety.

(b) Sixty percent (60%) of the funds in the Wireless Fund established in G.S. 62A-22(c) remaining after allocation of funds for (a) and 62A-26 shall be used to reimburse participating CMRS providers, in response to sworn invoices submitted to the Board, for the actual direct the costs incurred by the CMRS providers related to the providing and installing of equipment that implements in complying with the wireless 911 requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order, excepting costs for handsets and costs for Location Monitoring Units (LMUs), but including costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required in order to provide such service as well as the recurring and nonrecurring costs of operating such service. All costs and expenses must be commercially reasonable.

**Cingular Comment:** # Section 25(b) has been revised to disallow cost recovery for LMUs. Cingular cannot accept this. LMUs are the predominant non-recurring cost for providing Phase 2. LMU costs are directly attributable to Phase 2, have never been used for commercial service, and must be allowed.

**Verizon Comment:** EXEMPTS LOCATION MONITORING UNIT AND HANDSETS FROM REIMBURSEMENT (INTERESTING IN THAT THE RATIO OF EXPENSE IS STILL 60% FOR CARRIER REIMBURSEMENT). The LMU (network based carriers) and its functional equivalent HANDSETS are the largest part of the carrier expense for providing P2. So if these components are eliminated from cost recovery, a significant reduction of fee should accompany the policy change.

**NENA & APCO Comment:** change split to 50% for CMRS.

(c) Forty percent (40%) of the funds in the Wireless Fund established in G.S. 62A-22(c) shall be used to make monthly distributions to eligible PSAPs (the "40% Fund"). Money from the 40% Fund shall be used only to pay for the lease, purchase, or maintenance of emergency telephone equipment for the wireless Enhanced 911 system, including necessary computer hardware, software and database provisioning, and nonrecurring costs of establishing a wireless Enhanced 911 system; and for expenses for shared resources only the percentage of expenses proven to the Board as reasonable allocations of use by or for the Wireless System. Money from the 40% Fund may not be used for PSAP personnel costs, salaries or benefits, personnel training unless directly related to eligible expenses identified in this section, or addressing as provided in G.S. 62A-8. Money from the 40% Fund shall also be used to pay the rates associated with the local telephone companies' charges related to the operation of the wireless Enhanced 911 system. The 40% Fund shall be distributed as follows:

(1) Fifty percent (50%) of it shall be divided equally among the ~~total number of~~ Primary PSAPs in North Carolina. However, monthly distribution shall be made only to those Primary PSAPs that have complied with the provisions of this Article. Distribution to each ~~eligible~~ Primary PSAP in compliance, eligible PSAPs, will begin the month following its compliance with the provisions of this Article. All monies remaining in this portion of the 40% Fund on January 31 of each year will then be evenly distributed to each of the eligible Primary PSAPs.

(2) The other fifty percent (50%) shall be divided pro rata among the eligible Primary PSAPs based on the population served by the PSAP. However, monthly distribution shall be made only to those Primary PSAPs that have complied with the provisions of this Article. Distribution to each eligible Primary PSAP will begin the month following its compliance with the provisions of this Article. The population data to be used shall be the latest certified county and official municipal estimates of population published by the Office of State Budget and Management. All monies remaining in this portion of the 40% Fund on January 31 of each year will then be distributed to each of the eligible Primary PSAPs based on the population served by the Primary PSAP.

**Verizon Comment:** Clarifications are added to the current Fund use restrictions for the 40% fund. (PERMITS GIS TO BE COVERED EXPENSE). Okay.

**NENA & APCO Comment:** Change split to 50% for PSAPs, mirror expenditures from 62A-8 to include changes from above.

(c) Sworn invoices shall be presented by CMRS providers in connection with any request for reimbursement under this section. In no event shall any invoice for reimbursement be approved for the payment of costs that are not related to compliance with the wireless Enhanced 911 service requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order.

(d) In no event shall any invoice for reimbursement be approved for payment of costs of any CMRS provider exceeding one hundred ~~twenty-five~~ percent (125~~100~~%) of the ~~service charges~~ eligible costs under G.S. 62A-25(ab) remitted by such CMRS provider unless prior approval for such expenditures is received from the Board; and such Board approval shall not exceed one hundred twenty-five percent (125%) of the eligible costs under G.S. 62A-25(ab). If the total amount of invoices submitted to the Board and approved for payment exceeds the amount in the Wireless Fund in any month, CMRS providers that have invoices approved for payment shall receive a pro rata share of the Wireless Fund, based on the relative amount of their approved invoices available that month, and the balance of the payments will be carried over to the following month or months and shall include interest at a rate equal to the rate earned by the Wireless Fund until all of the approved payments are made.

**Cingular comment:** The language makes no sense. This paragraph was originally intended to make sure that no CMRS carrier would be permitted to recover far more money than its customers had remitted. There was a cost recovery cap of 125% of the aggregate amounts that were remitted in 911 service charges. Now the paragraph says that no carrier can recover more than 100% of its costs, but that restriction is already covered by section 25(b) which requires "sworn invoices" for "actual costs incurred." If the board wishes to remove the 125% cap, this paragraph should simply be stricken. And in that case, Cingular would oppose striking the language.

(e) In January of each year every participating PSAP will submit to the Board a copy of its governing agency's approved budget detailing the PSAP's revenues and expenditures associated with the operation of its wireless Enhanced 911 system. PSAPs must comply with all requests by the Board for financial information related to the operation of the wireless Enhanced 911 system. PSAP budgets must specifically include and identify revenues and expenditures for eligible expense reimbursements as described in G.S. §62A-25(bc).

(f) A county that is not compliant with phase 1 implementation by June 30, 2004 and phase 2 implementation by June 30, 2005 shall use the disbursements received under 62A-25(c) only for purposes of meeting requirements of the FCC Order. A county that is not compliant with phase 1 implementation by December 31, 2004 and phase 2 implementation by December 31, 2005 is not eligible to receive disbursements under 62A-25(c). Once the Board determines that a county that is not eligible to receive disbursements is compliant, the county shall begin receiving 62A-25(c) disbursements again. As used in this subsection, "compliant" means the county has installed equipment that is capable, and at a state of readiness, to deploy wireless service for all CMRS providers within a county's 911 service area.

**NENA & APCO Comment:** Change "county" to PSAP, check dates for issues.

(fg) On February 15, 2000, and every two years thereafter the Board shall report to the Joint Legislative Commission on Governmental Operations and the Revenue Laws Study Committee. The report shall contain complete information regarding receipts and expenditures of all funds received by the Board during the period covered by the report as well as the status of wireless Enhanced 911 systems in North Carolina at the time of the report. The first report shall cover the period from the formation of the Board to December 31, 1999. Each succeeding report shall cover the two-year period of time from the ending date of the previous report.

#### **§62A-25A Unauthorized Use of Funds; Board Action**



1 CMRS providers and PSAPs found by the Board to be using the Wireless E-911 Fund moneys  
2 for purposes other than those authorized by this Article and approved by the Board shall be  
3 provided with written notice by the Board of its determination that such expenditures are  
4 unauthorized. CMRS providers or PSAPs who fail to cease making unauthorized expenditures or  
5 fail to comply with a request to refund Wireless E-911 Fund moneys shall be subject to a  
6 suspension of future Wireless E-911 funding by the Board until such time as they comply with  
7 all provisions of this article. Upon receipt of the notice, the named CMRS provider or PSAP  
8 shall cease making any expenditure involving Wireless E-911 Fund moneys identified by the  
9 Board as unauthorized. The CMRS provider or PSAP may petition and shall receive a hearing  
10 before the Board within a reasonable time. At the Board's discretion, the CMRS provider or  
11 PSAP shall be required to refund within 90 days any Wireless E-911 Fund moneys spent on  
12 unauthorized expenditures to the Board for deposit into the Wireless E-911 Fund.

### 13 § 62A-26. Administrative fee

14 One percent of the funds in the Wireless Fund established in G.S. 62A-22(c) shall be allocated to  
15 [t]he Board shall be entitled to deduct a one percent (1%) administrative fee from the total  
16 service charges remitted by the CMRS providers for its administrative expenses. The Board  
17 shall not contract in an amount exceeding the administrative fee, reduced by its necessary  
18 operating expenses, for any year.

### 19 § 62A-27. Provision of services

20 In accordance with the FCC Order, no CMRS provider shall be required to provide wireless  
21 Enhanced 911 service until such time as (i) the provider receives a request for such service from  
22 the administrator of a PSAP that is capable of receiving and utilizing the data elements  
23 associated with the service; (ii) funds are available pursuant to G.S. 62A-24; and (iii) the local  
24 exchange carrier is able to support the wireless Enhanced 911 system.

### 25 § 62A-27A. Eligibility to receive distributions, Distribution of funds to PSAPs

26 To be eligible to receive distributions from the fund under section G.S §62A-25 of this chapter, a  
27 PSAP must comply with the wireless enhanced 911 requirements established by the FCC order  
28 and rules. A county containing one (1) or more eligible PSAPs shall submit a written notice to  
29 the Board that identifies each PSAP within the county that complies with the FCC order and  
30 rules. Distributions under G.S §62A-2562A-25(c) to a county containing one (1) or more  
31 eligible PSAPs must begin in the first full month after the board receives the county's written  
32 notice under this section. The distribution of wireless emergency enhanced 911 funds by the  
33 board for cost recovery by PSAPs under G.S §62A-25 of this chapter must be deposited by the  
34 county treasurer in a separate fund set aside for the purposes allowed by section G.S §62A-25(b)  
35 of this chapter. The fund must be known as the (insert name of county) wireless emergency  
36 telephone system fund. The county treasurer may invest money in the fund in the same manner  
37 that other money of the county may be invested, but income earned from the investment must be  
38 deposited in the fund set aside under this section.

### 39 § 62A-28. Audit

40 The State Auditor may perform audits pursuant to Article 5A of Chapter 147 of the General  
41 Statutes to ensure that funds in the Wireless Fund are being managed in accordance with the  
42 provisions of this Article and shall perform an audit at least every two years. The State Auditor

1 shall provide the audit to the Board when it meets to consider adjusting the service charge  
2 pursuant to G.S. 62A-23. The cost of audits shall be reimbursed to the State Auditor by the  
3 Board.  
4

#### 4 § 62A-29. Customer records

5 Each CMRS provider shall provide its 10,000 number groups to the PSAPs upon request. This  
6 information shall remain the property of the disclosing CMRS provider and shall be used only in  
7 providing emergency response services to 911 calls. CMRS connection information obtained by  
8 PSAP personnel for public safety purposes is not public information under Chapter 132 of the  
9 General Statutes. No person shall disclose or use, for any purpose other than for the wireless 911  
10 calling system, information contained in the database of the telephone network portion of a  
11 wireless 911 calling system established pursuant to this Article.  
12

#### 12 § 62A-30. Proprietary information

13 All proprietary information submitted to the Board or the State Auditor shall be retained in  
14 confidence. Proprietary information submitted pursuant to this Article shall not be subject to  
15 disclosure under Chapter 132 of the General Statutes, or otherwise released to any person other  
16 than to the submitting CMRS provider, the Board, and the independent, third-party auditor  
17 retained pursuant to G.S. 62A-26, without the express permission of the submitting CMRS  
18 provider. Further, proprietary information shall constitute trade secrets as defined by the North  
19 Carolina Trade Secrets Protection Act, Article 24 of Chapter 66 of the General Statutes. General  
20 information collected by the Board or the State Auditor shall be released or published only in  
21 aggregate amounts that do not identify or allow identification of numbers of subscribers or  
22 revenues attributable to an individual CMRS provider.  
23

#### 23 § 62A-31. Limitation of liability

24 A CMRS provider, local exchange company, service supplier, or their employees, directors,  
25 officers, or agents, except in cases of wanton or willful misconduct, shall not be liable for any  
26 damages in a civil action resulting from death or injury to any person or from damage to property  
27 incurred by any person in connection with developing, adopting, implementing, maintaining, or  
28 operating any wireless 911 system or wireless Enhanced 911 system. This section shall not apply  
29 to actions arising out of the operation or ownership of a motor vehicle.

30 Notwithstanding any other law, the board, an employee, director, officer, or a member of the  
31 board or the board chair, or an employee, an agent, or a representative of the board chair is not  
32 liable for damages in a civil action or subject to criminal prosecution resulting from death,  
33 injury, or loss to persons or property incurred by any person in connection with establishing,  
34 developing, implementing, maintaining, operating, and providing enhanced wireless 911 service  
35 in compliance with the requirements established by the FCC order and rules adopted under the  
36 FCC order, except in the case of willful or wanton misconduct.  
37

N.C. Gen. Stat. § 62A-32**§ 62A-32. Misuse of wireless 911 system; penalty**

Wireless emergency telephone service shall be used solely for emergency communications by the public. Any person who knowingly uses or attempts to use wireless emergency telephone service or information for a purpose other than obtaining public safety assistance, or who knowingly uses or attempts to use wireless emergency telephone service in an effort to avoid any CMRS charges, is guilty of a Class 3 misdemeanor. If the value of the CMRS charge or service obtained in a manner prohibited by this section exceeds one hundred dollars (\$ 100.00), the person is guilty of a Class 1 misdemeanor.